IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11524 of 1994

Between:

Church of South India Trust Association, Rep. by its

Diocesan Treasurer- N.M.John Wesley, Karimnagar.

..... PETITIONER

AND

The District Registrar of Assurances, Karimnagar.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction declaring the proceedings in Notice No.PC/2626/90 dated 28/05/1994 of the District Registrar of Assurances, Karimnagar, the respondent herein, as illegal, arbitrary, and contrary to the provisions of Indian Stamp Act and contrary to the Judgment of a Division Bench of this Hon'ble Court reported in 1991 (1) ALT page 430 and also contrary to the provisions of Art.300-A of the Constitution of India and issue a consequential direction to the respondent herein not to give effect to the same.

Counsel for the Petitioner: MR.M.RAJAMALLA REDDY

Counsel for the Respondent: GP FOR REVENUE

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and also learned Government Pleader appearing for the respondent.

The petitioner seeks to assail the proceedings in Notice No.P.C/2626/90 dated 28.5.1994 of the respondent, where under the petitioner was asked to make good the deposit of the stamp duty leviable under the contract for sale of property dated 27.9.1985, as illegal and void.

The case of the petitioner in brief is that having regard to the fact that there was no delivery of possession of the property soon after the agreement and therefore, none of the provisions of the Stamp Act or even amended Act will not have any attraction.

Learned Government Pleader appearing for the respondent submits that having regard to the fact that as per the provisions of the amended Act the petitioner's liability cannot be exempted.

Considering the submissions made on either side, perusal of the material on record, and also on reading of the agreement, it is clears that there was no delivery of possession of the property therein. In the agreement, it is specifically stated that the possession can be delivered soon after the approval of the lay out.

In view of the same and especially, when there is no such material to

show that there was delivery of possession either in the agreement or immediately in pursuance of the said agreement, the petitioner cannot made liable for stamp duty.

Accordingly, the Writ Petition is allowed and the impugned notice No.PC/2626/90 dated 28.5.1994 is set aside. There shall be no order as to costs.

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26th AUGUST 2004

BSS/KVRM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The District Registrar of Assurances, Karimnagar.

2.2CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT)

3.2CD copies